SUPREME COURT OF THE UNITED STATES.

No. 167.

THE PHILADELPHIA AND WILMINGTON RAILROAD COMPANY, PLAINTIFF IN ERROR,

vs.

THE STATE OF MARYLAND.

IN ERROR TO THE COURT OF APPEALS FOR THE WESTERN SHORE OF MARYLAND.

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J. & G. S. Gideon, printers.

UNITED STATES OF AMERICA, *ss:*

The President of the United States, to the honorable the judges
[L. S.] of the court of appeals for the Western Shore of Maryland, greeting:

Because, in the record and proceedings, as also in the rendition of the judgment of a plea which is in the said court of appeals before you, or some of you, being the highest court of law or equity of the said State in which a decision could be had in the said suit between the Philadelphia, Wilmington, and Baltimore Railroad Company, appellants, and the State of Maryland, appellee, wherein was drawn in question the validity of a treaty or statute of, or an authority exercised under, the United States, and the decision was against their validity; or wherein was drawn in question the validity of a statute of, or an authority exercised under, said State, on the ground of their being repugnant to the Constitution, treaties, or laws of the United States, and the decision was in favor of such their validity; or wherein was drawn in question the construction of a clause of the Constitution, or of a treaty, or statute of, or commission held under, the United States, and the decision was against the title, right, privilege, or exemption, specially set up or claimed under such clause of the said Constitution, treaty, statute, or commission, a manifest error hath happened, to the great damage of the said the Philadelphia, Wilmington, and Baltimore Railroad Company, as by its complaint appears; we being willing that error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same at Washington on the first Monday of December next, in the said Supreme Court to be then and there held, that the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein to correct that error, what of right and according to the laws and custom of the United States should be done.

Witness the honorable Roger B. Taney, chief justice of the said Supreme Court, the first Monday of December, in the year of our Lord one thousand eight hundred and forty-six.

WM. THOS. CARROLL,
Clerk of the Supreme Court of the United States.

Allowed by—

STEVENSON ARCHER,
Chief judge, &c.

MARYLAND, *sct:*

At a court of appeals of the State of Maryland, one of the United States of America, for the Western Shore of the said State, begun and held at the city of Annapolis, on the first Monday of December, in the year of our Lord one thousand eight hundred and forty-six, being the seventh day of the same month, and in the seventy-first year of the independence of the United States; present, the honorable Stevenson Archer, chief judge; Thomas B. Dorsey, Ezekiel F. Chambers, Ara Spence, Alexander C. Magruder, Robert N. Martin, judges; Richard W. Gill, clerk.

In the record and proceedings of the same court, among others is the following, to wit:

THE PHILADELPHIA, Wilmington, and Baltimore Railroad Company,
vs.
THE STATE OF MARYLAND.

Be it remembered, that now, here, on the first Monday in December, being the seventh day of the said month, in the year of our Lord one thousand eight hundred and forty-six, the chief judge and associate judges of the sixth judicial district of Maryland, in pursuance of the directions of the act of assembly in such case made and provided, transmit to the court of appeals here the record of proceedings of a plea, which was lately depending before them, in the county court of Baltimore county, between the State of Maryland, plaintiff, and the Philadelphia, Wilmington, and Baltimore Railroad Company, defendant; and wherein the said county court gave judgment for the said State of Maryland against the said the Philadelphia, Wilmington, and Baltimore Railroad Company; and from which said judgment the said the Philadelphia, Wilmington, and Baltimore Railroad Company appealed to the court of appeals here; the tenor of which said record of proceedings is in form following, to wit:

STATE OF MARYLAND, *Baltimore county, to wit:*

At a county court of the sixth judicial district of the State of Maryland, begun and held at the court house, in the city of Baltimore, in and for the county aforesaid, on the second Monday of September, being the fourteenth day of the same month, in the year of our Lord one thousand eight hundred and forty-six; present, the honorable Stevenson Archer, chief judge; John Purviance and John C. Le Grand, esquires, associate judges; John Kettlewell, esquire, sheriff; A. W. Bradford, clerk. Among other were the following proceedings, to wit:

THE STATE OF MARYLAND
vs.
THE PHILADELPHIA, Wilmington, and Baltimore Railroad Company. } Case, &c.

Be it remembered, that at this present term, to wit, the September term of Baltimore county court, in the year of our Lord one thousand

eight hundred and forty-six, comes into court here, as well the State of Maryland, the plaintiff in this cause, by George R. Richardson, esquire, her attorney, as the Philadelphia, Wilmington, and Baltimore Railroad Company, the defendant, by Reverdy Johnson, esquire, its attorney, and by consent of the said parties, and their attorneys aforesaid, an action in a plea of trespass on the case, &c., was docketed. Whereupon the said State of Maryland, by her said attorney, declares against the said defendant, in the plea aforesaid, in form following, to wit:

BALTIMORE COUNTY, *to wit:*

The Philadelphia, Wilmington, and Baltimore Railroad Company "was summoned to answer unto the State of Maryland in a plea of trespass on the case, and so forth." And whereupon the said State, by George R. Richardson, her attorney, complains, that whereas the said defendant, on the first day of December, in the year of our Lord eighteen hundred and forty-six, to wit, at the county aforesaid, was indebted to the said plaintiff in the sum of fifteen hundred dollars for taxes at that time due and unpaid to the said plaintiff; and, being so indebted, the said defendant, in consideration thereof, afterwards, to wit, on the same day and year aforesaid, at the county aforesaid, undertook and faithfully promised the said plaintiff to pay her the said sum of money when the said defendant should be thereunto requested. Nevertheless the said defendant, although often requested, hath not yet paid the aforesaid sum of money, or any part thereof, to the said plaintiff; but to pay the same hath hitherto altogether refused, and doth still refuse, so to do, to the damage of the said plaintiff in the sum of three thousand dollars; thereupon the said plaintiff brings suit, &c.

GEO. R. RICHARDSON,
Atty. for plff.

On the back whereof was thus endorsed, to wit: Agreed that the above suit be docketed, and judgment pro forma be entered for plaintiff for the amount of damages claimed to be released on payment of $1,455 19 and costs.

GEO. R. RICHARDSON, *for plff.*
REVERDY JOHNSON, *for defts.*

And thereupon it is ruled by the court here, on motion of the said plaintiff, by her attorney aforesaid, that the said defendant answer to the declaration of the said plaintiff in the plea aforesaid, within the ensuing fifteen days, or judgment by the court here will be rendered against it in default thereof.

Whereupon the parties aforesaid, by their attorneys aforesaid, file in said cause the following statement of facts, to wit:

THE STATE OF MARYLAND
vs.
THE PHILADELPHIA, Wilmington, and Baltimore Railroad Company.

"The Philadelphia, Wilmington, and Baltimore Railroad Company" was formed by an agreement of union, duly made and entered into be-

tween the following corporations, to wit, the Baltimore and Port Deposite Railroad Company, the Wilmington and Susquehanna Railroad Company, "and the Philadelphia, Wilmington, and Baltimore Railroad Company," of Pennsylvania. This agreement of union was made on the day of its date, under the authority claimed under and in pursuance of the directions of the several acts of assembly therein recited, and was entered into after the primary meetings of stockholders as required by said several acts. A copy of said agreement is herewith produced as a part of this statement, marked exhibit A. "The Baltimore and Port Deposite Railroad Company" was incorporated by the act of 1831, chapter 288, of the general assembly of Maryland; "the Wilmington and Susquehanna Railroad Company," (one of the parties to said agreement marked exhibit A,) was formed by an agreement of union, duly made and entered into on the 18th day of April, 1835, between the Delaware and Maryland Railroad Company "and the Wilmington and Susquehanna Railroad Company," (of Delaware,) in virtue and in strict pursuance of the several acts in said agreement of union recited, to wit, an act of the general assembly of the State of Delaware, passed on the 24th day of July, 1835, and an act of the general assembly of the State of Maryland, passed at December session, 1835, chapter 93, and was certified and recorded as directed by said several acts. The said corporation, "the Delaware and Maryland Railroad Company," was incorporated by the act of 1831, chap. 296, of the general assembly of Maryland; "the Wilmington and Susquehanna Railroad Company," (of Delaware,) was incorporated by an act of the general assembly of the State of Delaware, passed on the 18th day of January, 1832; "the Philadelphia, Wilmington, and Baltimore Railroad Company," (of Pennsylvania,) was originally chartered by an act of the general assembly of the Commonwealth of Pennsylvania, approved on the 2d day of April, 1831, by the name of the "Philadelphia and Delaware County Railroad Company;" which, by a supplement to said act, passed the 14th day of March, 1836, was changed to the corporate name of the Philadelphia, Wilmington, and Baltimore Railroad Company. The agreement of union by which the "Philadelphia, Wilmington, and Baltimore Railroad Company," the party to this suit, was formed, (of which said exhibit A is a copy,) was made by authority, and in pursuance, of the act of the general assembly of Maryland, passed at December session, 1837, chapter 30, and other corresponding acts of the general assembly of the State of Delaware and the Commonwealth of Pennsylvania, recited in said agreement of union, marked exhibit A. All which said acts of assembly of the States of Maryland, Delaware, and Pennsylvania, above referred to, or referred to in said exhibit A, relating to the incorporation and charter of the defendant, are to be regarded as part of this statement; and, to save the trouble of transcribing them, either party may read them from the printed statutes; to have the same effect as if they were transcribed into this statement, or regularly certified copies of the same filed herewith.

The railroad of the defendant extends from the city of Baltimore, in

Maryland, to the city of Philadelphia, in Pennsylvania; passing through the counties of Baltimore, Harford, and Cecil, in Maryland; and thence, over a part of the States of Delaware and Pennsylvania. That portion of said railroad which lies west of the Susquehanna river, that is to say, between the city of Baltimore and the said river, lying partly in Baltimore county and partly in Harford county, was made and constructed, (prior to the agreement of union of which exhibit A is a copy,) and owned in severalty by "the Baltimore and Port Deposite Railroad Company." That portion of said railroad which lies east of the Susquehanna, and between that river and the divisional line between the States of Delaware and Pennsylvania, was made by the Wilmington and Susquehanna Railroad Company, and (prior to the said agreement of union, of which exhibit A is a copy,) was owned in severalty by said last mentioned company. Previous to the consolidation of "the Delaware and Maryland Railroad Company" and "the Wilmington and Susquehanna Railroad Company," (of Delaware,) into one company, the line of the road which the said corporation, "the Delaware and Maryland Railroad Company," was authorized to make, was that part of said road which lay east of the Susquehanna, and between that river and the divisional line between the States of Maryland and Delaware; and that part of said road which the said corporation, "the Wilmington and Susquehanna Railroad Company," (of Delaware,) was authorized to make, is that part of said road which lies between the divisional lines of the States of Maryland and Delaware and the Commonwealth of Pennsylvania; each of said last mentioned corporations, prior to the consolidation, had commenced the location and construction of their said several parts; but, at the time of their consolidation under their agreement of union aforesaid, neither part was completed, but the whole was completed by the Wilmington and Susquehanna Railroad Company after their agreement of union aforesaid. The river Susquehanna is passed over by the use of a steamboat belonging to the defendant, the said Philadelphia, Wilmington, and Baltimore Railroad Company, and used by said defendant for the sole and exclusive purpose of transporting persons and property across said river, from shore to shore, from the terminus of the railroad track on the other shore; said steamboat is especially constructed for its use in connection with said railroad, and has rails laid on its upper deck which are so constructed that the said rails are placed in juxtaposition with the railroad track of the railroad when the boat is in place for use, in connection with the terminus of the road on either shore; cars are received upon the said deck of said steamboat from the railroad track on one shore and passed over the river by the said steamboat, and on to the railroad track on the other shore from off said boat, as the means of passing cars, &c., across the river; and prior to the agreement of union of which exhibit A is a copy, was owned jointly, but in unequal parts, by the Baltimore and Port Deposite Railroad Company and the Wilmington and Susquehanna Railroad Company, and was managed and kept in repair at the joint expense, in the proportion of their respective interest therein, by the said last mentioned two companies. The said steam-

boat, before and since the said agreement of union of which exhibit A is a copy, usually remained, and still usually remains, in a dock constructed in the Susquehanna river by protecting piers projecting from the Harford shore, when not actually in use; which dock is on the west shore of the Susquehanna river, and within the limits of Harford county. That part of said road which lies east of the divisional line between the States of Delaware and Pennsylvania, and thence extending to the city of Philadelphia, was, prior to the said agreement of union of which exhibit A is a copy, constructed and owned in severalty by the said corporation, called the Philadelphia, Wilmington, and Baltimore Railroad Company, (of Pennsylvania.) The principal office of the defendant, (ever since the agreement of union of which exhibit A is a copy,) for the transaction of the business of said company has been established and held in the city of Philadelphia, at the eastern terminus of said railroad.

The stated meetings of the board of directors, by the terms of said agreement of union, are to be held alternately at Wilmington and Philadelphia. There are offices at Philadelphia, Wilmington, and Baltimore, at any one of which transfers of stock may be made; the stated meetings of the stockholders were to be held in the city of Wilmington. Prior to said agreement of union, the principal office of the Baltimore and Port Deposite Railroad Company was held in the city of Baltimore, and the principal office of the defendant within the State of Maryland has been, and is now, in said city, at which place one of the vice presidents of the said corporation resides. All the corporate funds and capital stock of said defendant have been expended and contained in the location and construction of said road, and in the construction of such works and improvements as were necessary and expedient to the proper completion and use of said road, and in the purchase of cars and machinery of transportation, &c., necessary and indispensable to the completion and use of said road; and that the said company has not, at any time, since the said agreement of union, owned or held, and does not now own or hold, any estate, real, personal, or mixed, other than what forms a part of, or necessarily appertains to, the construction and completion of said road, and its works and improvements, and in the purchase of cars and machinery of transportation, &c., necessary and indispensable to its use; and that over and beyond its actual capital, it was found necessary to raise by loan a large additional amount for the purposes aforesaid, and which amount has been so applied. The defendant was assessed, under the act of the general assembly of Maryland, of March session, 1841, chap. 23, by the assessors, appointed under said act, for Harford county, with the sum of $127,000, as shewn by a copy of said valuation and assessment, filed herewith as a part of this statement, marked exhibit B. The several parcels or tracts of land, valued for 200 acres at $10 per acre, as held and occupied by said company from the Gunpowder Falls to the Susquehanna river, lie within the limits of Harford county, and consist of the land held and occupied by said company for the bed of its railroad, water stations, depots, and ticket offices of said company; portions

of which said lands were acquired under condemnations for the use of said company, under the provisions of the said act of the general assembly of Maryland, of December session, 1831, chap. 233, and other portions of which were acquired by agreement with the owners thereof. The title acquired in each case of agreement with the owner being consummated by deed of bargain and sale to the president and directors of said company and their successors, in the ordinary terms of a conveyance in fee. The houses and other improvements on the road, and at Havre de Grace, and the depots, ticket offices, and water stations of said company within the limits of Harford county. The railroad track iron, within the limits of Harford county, valued at $95,000, consists of the rails actually laid down and in use as the track of said railroad within the limit aforesaid. And the steam ferry boat at Havre de Grace, valued at $15,000 is the steamboat hereinbefore mentioned, used as aforesaid for the sole and exclusive purpose of transporting persons and property across the river Susquehanna, from the terminus of the railroad track on one shore to the terminus of the railroad track on the other shore, in the manner hereinbefore mentioned; said steamboat is, and continually, since its use as aforesaid, has been duly enrolled and licensed at the custom-house in Baltimore, according to the act of Congress. The capital stock of the defendant, under the agreement of union, (of which exhibit A is a copy,) is divided into 45,000 shares of $50 each, and which stock is held by various persons, many of whom reside in the State of Maryland, and others of whom, and a large majority of whom, reside in other States, and in Europe, and was so held at the time of said union. The stockholders residing in the city of Baltimore, in Maryland, had actually been assessed to the extent of the stock by them respectively held, no objection being taken to said assessment, nor any appeal prosecuted therefrom; no assessment has been made on the stock of any of the stockholders residing in Harford county, or Cecil county, if any reside there, nor on the stock of non-resident stockholders. It is further admitted that the taxes assessed and levied upon the said property of the said defendant were for State purposes for the years 1842, 1843, 1844, and 1845; and that the same were assessed and levied by the commissioners of Harford county, under the act of the general assembly of the State of Maryland, passed at March session, 1841, chap. 23, and that the said paper, marked exhibit B, filed as a part of this statement, is a correct statement of the rate and amount of taxes so assessed and levied, and that said rate of taxation is the same as that imposed for said years upon all real and personal property (not expressly exempted by said act of assembly) in said State. It is further agreed, that if the court shall be of opinion, on the aforegoing statement, that the said property of said defendant is liable to be assessed for taxes for general State purposes, under the act of assembly aforesaid, that then judgment be rendered for the plaintiff for fourteen hundred and fifty-five dollars and nineteen cents ($1,455 19) and costs; but if the court shall be of opinion that the said property of the said defendant is not liable to be assessed and taxed as aforesaid,

but the same is exempt from such assessment and taxation under the charter of the defendant, or the said act of the general assembly of Maryland, of March session, 1841, ch. 23, then judgment to be given for defendant.

GEO. R. RICHARDSON, *Attorney for plaintiff.*
REVERDY JOHNSON, *for defendants.*

Exhibit A, referred to in the aforegoing statement, is as follows, to wit:

Agreement between the Wilmington and Susquehanna Railroad Company, the Baltimore and Port Deposite Railroad Company, and the Philadelphia, Wilmington, and Baltimore Railroad Company.

Copy—Articles of union made and concluded this fifth day of February, in the year of our Lord one thousand eight hundred and thirty-eight, between the Wilmington and Susquehanna Railroad Company, the Baltimore and Port Deposite Railroad Company, and Philadelphia, Wilmington, and Baltimore Railroad Company, by virtue and in pursuance of an act of the general assembly of the State of Delaware, entitled a further supplement to an act entitled an act to incorporate the Wilmington and Susquehanna Railroad Company, "and of an act of the general assembly of Maryland, entitled an act to authorize the union of the Baltimore and Port Deposite Railroad Company, the Wilmington and Susquehanna Railroad Company, and the Philadelphia, Wilmington, and Baltimore Railroad Company, "and of an act of the general assembly of Pennsylvania, entitled an act supplementary to the act incorporating the Philadelphia, Wilmington, and Baltimore Railroad Company."

First. The said three corporations are hereby united, and from and after the first election of directors hereinafter provided for in the third article shall be merged into one body corporate under the name and style of the Philadelphia, Wilmington, and Baltimore Railroad Company, and the stocks of the said three corporations so united shall form one common stock, and all the estate, real, personal, and mixed, and the rights, privileges, advantages, and immunities belonging to each of the said corporations, become and be vested in the said body corporate, and the debts and liabilities of each of the said corporations shall be deemed, and are hereby declared to be, the debts and liabilities of the said body corporate.

Second. The stock of the said body corporate is hereby divided (*into*) into shares of fifty dollars each, of which the present stockholders of the Wilmington and Susquehanna Railroad Company are hereby declared to be entitled, in all, to sixteen thousand shares, the present stockholders of the Baltimore and Port Deposite Railroad Company to nineteen thousand shares, the present stockholders of the Philadelphia, Wilmington, and Baltimore Railroad Company to ten thousand shares, including those forfeited heretofore, which are to be held for the use of this corporation; and certificates of stock, as may be regulated by the president and directors of the said body corporate, shall be granted and is-

sued accordingly to each of the said stockholders so soon as the said stockholders shall have paid up all instalments due upon the shares of stock held by them respectively, and shall have surrendered the certificates previously issued to them as stockholders in the respective companies hereby united; and the capital stock of the said corporation shall consist of such number of shares as aforesaid, subject to the right and privilege of increasing the same from time to time, according to the provisions of the respective charters of the said companies hereby united.

Third. There shall be fifteen directors to manage the affairs and business of the said body corporate, and a meeting of the stockholders of the three corporations hereby united for the election of the first directors shall be held at Wilmington on Wednesday the fourteenth day of February instant, of the time and place of which meeting notice shall be given by the present president of the Wilmington and Susquehanna Railroad Company by advertisement in at least three newspapers, at which meeting fifteen directors shall be elected by the said stockholders voting in person or by proxy, and each share being entitled to one vote; and the directors so elected shall hold their offices until the ensuing annual meeting of the stockholders, and until their successors are elected.

Fourth. The stated meetings of the stockholders shall be held in the city Wilmington on the second Monday of January in each and every *hear* hereafter, at which time and place an annual election of directors shall be made by the stockholders, and fifteen days' notice of the time and place of each stated meeting shall be given by advertisement in at least three newspapers; the election shall be by ballot, and each share of the stock shall entitle the holder thereof to one vote, to be given either in person or by proxy, provided it has been held for three calendar months before the time of voting; the directors shall, after the first and each subsequent election, choose by ballot one of their own number to be president of the said body corporate, who shall serve one year or until the election of a successor; the omission to hold an election for directors at the time prescribed shall in no wise affect the said body corporate, but such election may be had upon due notice from the said president and directors, published as aforesaid, at any time within three months after the time so prescribed as aforesaid.

The directors shall hold their offices for one year, and until a new election shall take place, and the powers of the said president and directors shall be the same as are now vested in the president and directors of the Wilmington and Susquehanna Railroad Company; the president may be removed from his office by a vote of two-thirds of all the directors. The directors may, in each year that they may deem it advisable, elect a vice president from their own number, who, in the absence of the president, shall have all the powers of the president, and shall be liable to removal in like manner as the president. Five directors shall constitute a quorum for the transaction of business. The directors may, if they shall deem it advisable, appoint an executive committee, consisting of six members, from the States of Pennsylvania, Delaware, and Maryland, for such time, and for the performance of

such duties, as any resolutions of the directors, or any by-law, may prescribe and assign; and the president, or vice president, and any two members of said committee, shall constitute a quorum thereof. All officers and agents of the corporation, other than directors, shall be appointed by the directors, who may prescribe and exact such security as they may deem proper for the performance of their duties.

Fifth. The stated meetings of the board of directors shall be held alternately at Wilmington and Philadelphia, and special meetings may be held either at Wilmington, Philadelphia, or Baltimore. The corporation shall have offices opened at Wilmington, Philadelphia, and Baltimore, at either of which transfers of stock may be made, under such regulations as the board of directors may prescribe.

Sixth. All by-laws shall be made, altered, or repealed, only by a majority, consisting of not less than two-thirds of all the directors; it being understood that no by-law shall contravene any of these terms or stipulations; and the existing by-laws of the Wilmington and Susquehanna Railroad Company shall, until altered or repealed as aforesaid, be the by-laws of this corporation; and all rules and regulations necessary for the management and conduct of the business of the company, not provided for in a by-law, may be made by the directors.

In witness whereof the said corporations, parties to this agreement, have caused their respective corporate seals, attested by the signatures of their respective presidents, to be hereunto affixed, the day and year first herein before written.

JAMES PRICE, [L. S.]
Pres't Wil. and Susq'a R. R. Co.
J. I. COHEN, jr., [L. S.]
Pres't Balto. and Port Deposite Railroad Co.
M. NEWKIRK, [L. S.]
Pres't Philad'a, Wil'n and Baltimore Railroad Co.

In pursuance of the provisions of an act of the general assembly of Maryland, entitled "an act to authorize the union of the Baltimore and Port Deposite Railroad Company, the Wilmington and Susquehanna Railroad Company, and the Philadelphia, Wilmington and Baltimore Railroad Company," do hereby certify, under their respective corporate seals, attested by their respective presidents, that the within and foregoing instrument of writing is a true copy of an agreement for the union of the said company, made and concluded on the fifth day of February, A. D. eighteen hundred and thirty-eight.

JAMES PRICE, [L. S.]
Pres't Wil. and Susq. R. R. Co
J. I. COHEN, jr., [L. S.]
Pres't Balto. and Port Deposite R. R. Co.
M. NEWKIRK, [L. S.]
Pres't Phil'a, Wilmington, and Baltimore Railroad Co.

Received to be recorded the 12th day of February, 1838, at 5 o'clock, P. M.; same day recorded and examined.

Pr. THOS. KELL, *Clerk*

In testimony that the aforegoing is a true copy, taken from liber T K, No. 276, folio 392, &c., one of the land records of Baltimore county, I hereto subscribe my name and affix the seal of Baltimore county court, this 3d day of December, 1846.

[L. S.]

A. W. BRADFORD,
Clerk of Balto. co. court.

Exhibit B, referred to in said statement, is as follows, to wit:

A list of the real and personal property of the Philadelphia, Wilmington and Baltimore Railroad Company, as per the assessors' books on file in the office of the commissioners of Harford county, on which taxes is due for the years of 1842, 1843, 1844, and 1845, to wit:

Different tracts of land, from the Gunpowder Falls to the Susquehanna, containing 200 acres, at $10 per acre, -	$2,000
Tract, iron, &c., &c., - - - - - -	95,000
Houses and other improvements on the road, and at Havre de Grace, - - - - - -	15,000
Steamboat at Havre de Grace, - - - - -	15,000
	$127,000

I hereby certify, that the above is a true transcript of the property of the Railroad Company from the assessors' books.

Given under my hand and seal of the commissioners of Harford county this

1842—To State tax on $127,000, at 25 cts. per 100, -	$317 50
Commission at 1½, - - - -	19 05
Interest for three years, - - - -	60 57
1843—To State tax on the same, at 25 per 100, - -	317 50
Commission at 1¾, - - - -	22 22
Interest for two years, - - - -	40 75
1844—To State tax on the above, 25 per 100, - -	317 50
Commission at 1¾, - - - -	22 22
Interest for one year, - - - -	20 38
1845—State tax on the above 25 in 100, - -	317 50
	$1455 19

JAMES SPICER, *Collector.*

It is agreed that any errors in the foregoing statement be corrected by counsel, at the trial of the cause, either in the county court, court of appeals, or Supreme Court of the United States; and that said statement may be added to or amended, by agreement, at any time.

GEO. R. RICHARDSON,
Att'y for plaintiff.

REVERDY JOHNSON,
For defendant.

Whereupon, the said defendant says, that it cannot deny the action aforesaid of the said plaintiff so as aforesaid against it brought, nor but

that it, the said defendant, did undertake, in manner and form, as the said plaintiff above thereof against it hath complained; nor but that the said plaintiff hath sustained damages, by reason of the non-performance of the promise and undertaking in the said declaration mentioned, to the sum of three thousand dollars, as by the said declaration is supposed. Therefore, it is considered by the court here, that the said State of Maryland, the plaintiff aforesaid, recover against the said the Philadelphia, Wilmington, and Baltimore Railroad Company, the said defendant, as well the sum of three thousand dollars, current money, for her damages in form aforesaid acknowledged, as the sum of seven dollars thirty-eight and one-third cents, adjudged by the court here unto the said plaintiff for her costs and charges by her about her suit in this behalf expended; and the said defendant, in mercy, &c.

Memorandum—Judgment, pro forma, for the plaintiff, on case stated, was entered in this cause on the fourth of December, eighteen hundred and forty-six, for three thousand dollars damages in nar. and costs, to be released on payment of fourteen hundred and fifty-five dollars and nineteen cents, with interest from 4th December, 1846, and costs.

Test: A. W. BRADFORD, *Clerk*.

Whereupon, during the said term, to wit, on the said fourth day of December, in the year aforesaid, the said defendant, by his attorney aforesaid, prays an appeal from the judgment aforesaid, so as aforesaid rendered, to the court of appeals for the Western Shore of the State of Maryland, and to him it is granted. It is thereupon ordered by the court here, that a transcript of the record and proceedings, in the plea aforesaid, with all things thereto relating, be transmitted to the said court of appeals, and the same is hereby transmitted accordingly.

In testimony that the aforegoing is a full and true transcript, taken from the record of proceedings of Baltimore county court, I [L. S.] have hereto subscribed my name and affixed the seal of said county court, this fourth day of December, anno domini eighteen hundred and forty-six.

A. W. BRADFORD,
Clerk, Balto. county court.

And now come into the court of appeals here as well the said the Philadelphia, Wilmington, and Baltimore Railroad Company, by Reverdy Johnson, its attorney, as the said State of Maryland, by George R. Richardson, its attorney; and thereupon, on motion of the said the State of Maryland, by its attorney aforesaid, it is ruled by the court here, that the said the Philadelphia, Wilmington, and Baltimore Railroad Company assign the errors in the record of proceedings aforesaid, or in the giving the judgment aforesaid, so as aforesaid brought before the court of appeals here, for correcting the errors supposed to be therein, or judgment by the court of appeals here will be entered against it in default thereof. And the said the Philadelphia, Wilmington, and Baltimore Railroad Company, by its attorney aforesaid, says, that, in the record of proceedings aforesaid, and also in the giving of judgment afore-

said, there is manifest error in this, to wit, that, by the record aforesaid, it appears that the judgment aforesaid, in the plea aforesaid given, was given for the said the State of Maryland against the said the Philadelphia, Wilmington, and Baltimore Railroad Company, when, by the law of the land, that judgment ought to have been given for the said the Philadelphia, Wilmington, and Baltimore Railroad Company against the said State of Maryland; therefore, in that there is manifest error, and it prays that the judgment aforesaid for that error, and others being in the record of proceedings aforesaid, may be reversed, annulled, and held entirely as void; and that it, the said the Philadelphia, Wilmington, and Baltimore Railroad Company may be restored to all things which it hath lost by occasion of the said judgment, and that the said the State of Maryland may rejoin to the errors aforesaid, and so forth. And thereupon it is ruled by the court of appeals here, that the said the State of Maryland join in the errors by the said the Philadelphia, Wilmington, and Baltimore Railroad Company above assigned in the record of proceedings aforesaid, or judgment by the court of appeals here will be rendered against it in default thereof. And the said the State of Maryland, by its attorney aforesaid, says, there is no error in the record of proceedings aforesaid, nor in the giving of the judgment aforesaid, and it prays that the court of appeals here will proceed to the examination as well of the record of proceedings aforesaid, as of the matters aforesaid by the said the Philadelphia, Wilmington, and Baltimore Railroad Company above for error assigned, and that the said judgment may be in all things affirmed, and so forth. And now, at this day, to wit, the said day and year first above mentioned, the parties aforesaid, by their attorneys aforesaid, being present in court here; whereupon, as well the record and proceedings aforesaid, and the judgment given in form aforesaid, as the matters aforesaid by the said the Philadelphia, Wilmington, and Baltimore Railroad Company above for error assigned, being seen, and by the court of appeals here fully understood, and mature deliberation thereupon had; for that it appears to the court of appeals here that there is no error in the record of proceedings aforesaid, nor in the giving of the judgment aforesaid, therefore, it is considered by the court of appeals here, that the judgment aforesaid given in form aforesaid, be in all things affirmed pro forma, and stand in full force and effect, the said causes for error above assigned and alleged in any wise notwithstanding. And it is further considered by the court of appeals here, that the said the State of Maryland have execution against the said the Philadelphia, Wilmington, and Baltimore Railroad Company, as well for its costs and charges aforesaid, adjudged unto it in the said county court of Baltimore, as also the sum of twenty-nine dollars and seventeen cents adjudged unto the said the State of Maryland by the court of appeals here on its assent for its costs and charges which it had sustained by occasion of the delay of the execution of the judgment aforesaid, by pretext of the prosecution of the said appeal by the said the Philadelphia, Wilmington, and Baltimore Railroad Company, for the correcting of errors of and upon the premises as aforesaid prosecuted, &c.

Test: RICHARD W. GILL, *Clerk.*

Afterwards, to wit, on the first day of July, in the year of our Lord one thousand eight hundred and forty-seven, the aforesaid the Philadelphia, Wilmington, and Baltimore Railroad Company, by its attorney aforesaid, produce to the court of appeals here the writ of the United States for the correcting of errors of and upon the premises, commanding the record and proceedings of the judgment last aforesaid so as aforesaid rendered, with all things concerning the same, to be transmitted to the Supreme Court of the United States; which said writ of error follows in these words, to wit:

UNITED STATES OF AMERICA, *ss:*

The President of the United States, to the honorable the judges of the court of appeals, for the Western Shore of Maryland, greeting:

Because, in the record and proceedings, as also in the rendition of the judgment of a plea which is in the said court of appeals, before you or some of you, being the highest court of law or equity of the said State in which a decision could be had in the said suit between the Philadelphia, Wilmington, and Baltimore Railroad Company, appellants, and the State of Maryland, appellee, wherein was drawn in question the validity of a treaty or statute of, or an authority exercised under, the United States, and the decision was against their validity; or wherein was drawn in question the validity of a statute of, or an authority exercised under, said State, on the ground of their being repugnant to the Constitution, treaties, or laws of the United States, and the decision was in favor of such their validity; or wherein was drawn in question the Construction of a clause of the Constitution, or of a treaty, or statute of, or commission held under, the United States, and the decision was against the title, right, privilege, or exemption, specially set up or claimed under such clause of the said Constitution, treaty, statute, or commission, a manifest error hath happened to the great damage of the said the Philadelphia, Wilmington, and Baltimore Railroad Company, as by its complaint appears; we being willing that error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same at Washington on the first Monday of December next, in the said Supreme Court to be then and there held; that the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein, to correct that error, what of right, and according to the laws and custom of the United States, should be done.

Witness the honorable Roger B. Taney, chief justice of the said Supreme Court, the first Monday of December, in the year of our Lord one thousand eight hundred and forty-six.

WM. THOS. CARROLL,
Clerk of the Supreme Court of the United States.

Allowed by STEVENSON ARCHER,
Chief Judge, &c.